

§ 313.99

§ 313.99 Prohibited actions by employer.

The DCIA prohibits an employer from discharging, refusing to employ, or taking disciplinary action against the debtor due to the issuance of a withholding order under this subpart.

§ 313.100 Refunds.

(a) If a hearing official determines that a debt is not legally due and owing to the United States, the FDIC shall promptly refund any amount collected by means of administrative wage garnishment.

(b) Unless required by federal law or contract, refunds under this section shall not bear interest.

§ 313.101 Right of action.

The FDIC may sue any employer for any amount that the employer fails to withhold from wages owed and payable to its employee in accordance with this subpart. However, a suit will not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations. For purposes of this subpart, “termination of the collection action” occurs when the agency has terminated collection action in accordance with the FCCS (31 CFR 903.1 through 903.5) or other applicable standards. In any event, termination of the collection action will have been deemed to occur if the FDIC has not received any payments to satisfy the debt from the particular debtor whose wages were subject to garnishment, in whole or in part, for a period of one (1) year.

§§ 313.102–313.119 [Reserved]

Subpart E—Tax Refund Offset

§ 313.120 Scope.

The provisions of 26 U.S.C. 6402(d) and 31 U.S.C. 3720A authorize the Secretary of the Treasury to offset a delinquent debt owed to the United States Government from the tax refund due a taxpayer when other collection efforts have failed to recover the amount due. In addition, the FDIC is authorized to collect debts by means of administrative offset under 31 U.S.C. 3716 and, as

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part of the debt collection process, to notify the Financial Management Service (FMS), a bureau of the Department of the Treasury, of the amount of such debt for collection by tax refund offset.

§ 313.121 Definitions.

For purposes of this subpart E:

(a) *Debt or claim* means an amount of money, funds or property which has been determined by the FDIC to be due to the United States from any person, organization, or entity, except another federal agency.

(b) *Debtor* means a person who owes a debt or a claim. The term “person” includes any individual, organization or entity, except another federal agency.

(c) *Tax refund offset* means withholding or reducing a tax refund payment by an amount necessary to satisfy a debt owed by the payee(s) of a tax refund payment.

(d) *Tax refund payment* means any overpayment of federal taxes to be refunded to the person making the overpayment after the Internal Revenue Service (IRS) makes the appropriate credits.

§ 313.122 Notification of debt to FMS.

The FDIC shall notify FMS of the amount of any past due, legally enforceable non-tax debt owed to it by a person, for the purpose of collecting such debt by tax refund offset. Notification and referral to FMS of such debts does not preclude FDIC’s use of any other debt collection procedures, such as wage garnishment, either separately or in conjunction with tax refund offset.

§ 313.123 Certification and referral of debt.

When the FDIC refers a past-due, legally enforceable debt to FMS for tax refund offset, it will certify to FMS that:

(a) The debt is past due and legally enforceable in the amount submitted to FMS and that the FDIC will ensure that collections are properly credited to the debt;

(b) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within